

Regular Session, 2009

HOUSE BILL NO. 523

BY REPRESENTATIVE ERNST

VETOED
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Veto Message

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT

To amend and reenact R.S. 14:95.2.1(A), to enact R.S. 14:95.2.1(D), to redefine the crime of illegal carrying of a firearm at a parade; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:95.2.1(A) is hereby amended and reenacted and R.S. 14:95.2.1(D) is hereby enacted to read as follows:

§95.2.1. Illegal carrying of a firearm at a parade; penalties; ~~with any firearm used in the commission of a crime of violence~~

A. ~~Whoever commits the crime of illegal carrying of weapons pursuant to R.S. 14:95 with any firearm used in the commission of a crime of violence as defined in R.S. 14:2(B), within one thousand feet of any parade or demonstration for which a permit is issued by a governmental entity,~~ (1) Illegal carrying of a firearm at a parade is the illegal carrying of a firearm in violation of R.S. 14:95 within one thousand feet of any parade or demonstration for which a permit is issued by a governmental entity.

(2) Whoever commits the crime of illegal carrying of a firearm at a parade shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both.

(3) Any sentence issued pursuant to the provisions of this Subsection and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively.

* * *

1 D. The provisions of this Section shall not apply to any of the following:

2 (1) A federal, state, or local law enforcement officer in the performance of
3 his official duties.

4 (2) Any constitutionally protected activity which cannot be regulated by the
5 state, such as a firearm contained entirely within a motor vehicle.

6 (3) The possession of a firearm occurring within one thousand feet of a
7 parade and entirely on private property, within a private residence, or in accordance
8 with a concealed handgun permit issued pursuant to R.S. 40:1379.1.

9 (4) The possession of a firearm by a person who holds a valid certificate as
10 a living historian in the use, storage, and handling of black powder issued by the
11 Louisiana office of state parks for the purpose of historic reenactments if the firearm
12 is a black powder weapon which is an antique firearm as defined in 18 U.S.C.
13 921(a)(16), or an antique device exempted from the term "destructive device" in 18
14 U.S.C. 921(a)(4).

15 (5) The possession of any firearm which has been authorized as part of the
16 parade itself.

17 (6) Active and retired law enforcement officers who are authorized to carry
18 concealed firearms pursuant to 18 U.S.C. 926(B) and (C).

19 (7) Any person lawfully engaged in hunting or a sport shooting activity on
20 any public or private property where such hunting or sport shooting activity is
21 lawfully permitted. For the purposes of this Paragraph, "sport shooting activity"
22 means a competitive or recreational activity that involves the use and discharge of
23 any firearm, including but not limited to trap, skeet and target shooting.

1 (8) A person who is transporting a firearm from a place of lawful purchase
2 or repair.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

VETO MESSAGE

Under current law, it is illegal to carry a firearm “used in the commission of a crime of violence” within a parade zone. The purpose of this qualifying language is to require that the illegal *use* of a firearm is the primary element of the offense, not the mere possession of a firearm. House Bill No. 523 removes this important provision and criminalizes certain acts of mere possession. The National Rifle Association and others have requested veto of this bill in part because it does not exempt firearm carriers with a valid permit under R.S. 40:1379.3 or unintentional violators. In addition, I have signed House Bill No. 44, which creates the crime of reckless or criminally negligent discharge of a firearm within 1,000 feet of certain public events, including parades.

For these reasons, I have vetoed House Bill No. 523 and hereby return it to the House of Representatives.